IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3796 OF 2003

M/s P.T. Steel Industries .. Petitioners

V/s

Union of India & Ors. .. Respondents

Mr.Prakash Shah with Mr.Jayesh Motwani i/b DSK Legal for the Petitioners.

Mr.R.V. Desai, Senior Advocate with Mr.P.S.Jetly for the Respondents.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATE : 23RD NOVEMBER 2005

P.C. :

1. Heard Mr.Shah for the Petitioners and Mr.Desai for the Respondents.

2. The judgment and order passed by the Customs, Excise and Gold Control Appellate Tribunal dated 17th April 2003 in Appeal No.E/1655/02, Mumbai is under challenge in this petition. Amongst others, Mr.Shah has pointed out that the Tribunal consisting of two Members has taken a view contrary to another decision rendered by another Tribunal consisting of two Members. This being the position, he submits that the approach of the Tribunal was erroneous and the order ought to be

interfered with. Mr.Desai appearing for the Respondents leaves it to the Court to pass appropriate order.

3. In the circumstances, only for this reason, we set aside the impugned order and restore the Appeal to the file of the Tribunal. It will be open to the Tribunal to decide the Appeal on its own merits. In the event, however, the Tribunal again comes to the same view, namely that it is of the view that the opinion of the earlier Tribunal is not a correct one, it will be expected of it to refer the question to a larger Bench.

4. Petition disposed of accordingly.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)